

APPROVED: 9/16/10

**MINUTES OF THE
TOWN OF HIGHLANDS PLANNING BOARD
July 15, 2010**

A regular meeting of the Town of Highlands Planning Board was held in the Court Room, Town Hall, Highland Falls, New York, on Thursday, July 15, 2010, at 7:00 P. M.

THERE WERE PRESENT:

Board Members:

Erik Smith, Chairman
Terry Holt, Deputy Chairman
Cathy Kelly
John Hunter
Chris Dyroff

M. Justin Rider, Esq. (Rider, Weiner & Frankel, P.C.)
Leslie J. Dotson (Garling Associates), Planning Consultant

ALSO PRESENT: John Hager, Building Inspector, Kathryn Davis, Susan Davidson, Anthony B. Gioffre III, Matt Lawney, Gina Lawney, Samantha Lawney, Greg Madigan, Glen Moyer, Chris Moyer, and Deborah Kopald.

The meeting was called to order at 7:00 P. M. with the Pledge to the Flag. It was noted that there was a quorum present.

The Chairman noted that the Attorney and Planner are present. Due the agenda tonight, it was not necessary for the Engineer to be present.

Public Hearing Matthew Lawney for Sylvestri Land Trust, 36 Montgomery Road (Site Plan Section 15 Block 3 Lot 30 R-1-R Zone).

The Applicant presented the Affidavit of Mailing and the Affidavit Posting, along with an updated stamped site plan. The Chairman had the Affidavit of Publication.

Mr. Lawney stated that they are proposing an addition to the side of their house. It is an approved addition of a bedroom onto a single family home. The lot already has a multi-family dwelling and a single family home on it. The reason this project is here in the Town Planning Board's purview is because the Code requires additions such as this in the R-1-R Zone to get Planning Board approval.

At 7:04 P. M., the Public Hearing was opened.

Susan Davidson, 46 Montgomery Road, did not know about the project and came tonight to get information. Ms. Davidson reviewed the site plan. Mr. Lawney explained the addition to the side of the single family home, stating they are not doing anything to the multi-family dwelling. The project is well within the confines of their property. It meets all of the requirements of the Town. Because it is situated on the Hudson River the Public Hearings are required.

The Chairman stated that as is their routine, all Members of the Board visited the site. He asked if anyone else wanted to comment on the project. He also asked Board Members if they had any comment. None were noted.

At 7:08 P. M., a motion was made to close the Public Hearing.

Motion: Mr. Holt

Seconded: Mr. Hunter

Approved

At 7:09 P. M. the Regular meeting began.

It was unanimously agreed that the Board Members would like to have more time to review the June 17, 2010 Minutes, due to the fact that they were quite extensive. They will be brought up again for approval at the August meeting.

COMMUNICATIONS:

- New York State Association of Towns is having their annual Zoning and Planning Summer Schools. There is one Wednesday, July 28, 2010 at SUNY Orange.
- A one day event called Water Flowing by the Orange County Department of Planning on July 30, 2010 at the Sterling Forest Visitors Center.
- A SEQRA Class by Loherman in White Plains in September.
- New York State Planning Federation Annual Conference in Lake Placid on September 26-28, 2010.
- A copy of “Scenic Hudson Revitalizing Riverfronts”

VOUCHERS – JUNE 2010:

Rider, Weiner, Frankel, P.C. (Attorneys)

General	\$ 193.55
Homeland Towers	2,100.00
Lawney	444.47

J. R. Folchetti & Associates (Engineers)

General	\$ 195.00
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Garling Associates

General Planning	\$ 220.50
Homeland Towers	567.00
Lawney	94.50

News of the Highlands

Lawney Public Hearing Notice	\$ 25.33
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OC Planning Federation

Support Staff Workshop	\$ 30.00
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The Chairman submitted the vouchers to the Comptroller.

OLD BUSINESS:

Matthew Lawney for Sylvestri Land Trust, 36 Montgomery Road (Site Plan Section 15 Block 3 Lot 30 R-1-R Zone)

The Chairman received the GML reply from Orange County notifying the Board that the County said it was of local determination with no comments. The Board thanked them for their prompt reply. Additionally, he had a letter from John Hager, Building Inspector notifying the Board that he reviewed the preliminary plans and has determined that the proposed construction substantially complies with New York State Residential Building Code and the Town of Highlands Building Code and as part of the Board's site plan review that was necessary.

The Chairman discussed items in the Engineer's Comment Letter, as noted below:

- Dimensional requirements were met and were confirmed by Mr. Hager.
- Complete building and construction plans were included and were in substantial compliance also confirmed by Mr. Hager.
- Question concerning a copy of the Power of Attorney. The Applicant presented a copy of the Power of Attorney.

The Chairman discussed Ms. Dotson, Planning Consultant's Comment Letter concerning the trees. The Applicant pointed out the area of the trees to Ms. Dotson.

**RESOLUTION
OF
JULY 15, 2010**

**RESOLUTION OF SEQR DESIGNATION
AND DETERMINATION
MATTHEW H. LAWNEY
SITE PLAN**

Planning Board Member¹ Cathy Kelly presented the following resolution which was seconded by Planning Board Member Chris Dyroff.

WHEREAS, an Environmental Assessment Form (the "EAF") was prepared in June 2010, for application for a Site Plan to allow for the construction of a master bedroom and kitchen addition to a single family home on real property located at 36 Montgomery Road, in the Town of Highlands and which is designated on the Tax Map as Section 15, Block 3 Lot 30 (the "Action"); and

WHEREAS, the Planning Board has determined that the Action is an unlisted action under Part 617 of the General Regulations adopted pursuant to Article 8 of the Environmental Conservation Law the Planning Board determined to conduct an uncoordinated review; and

WHEREAS, the Planning Board has heretofore designated itself lead agency; and

WHEREAS, the Planning Board has heretofore reviewed the EAF together with any other supporting information, and analyzed and considered any relevant areas of environmental concern and the probable environmental impacts of the Action to determine if the Action may have any significant adverse environmental effects.

NOW THEREFORE, BE IT RESOLVED:

1. The Planning Board does determine that the Action is an unlisted action under Part 617 of the General Regulations adopted pursuant to Article 8 of the Environmental Conservation Law and the Planning Board did conduct an uncoordinated review of the project.
2. The Planning Board does further determine that said Action will not have a significant adverse environmental impact and, therefore, does issue a negative declaration.
3. The Planning Board hereby authorizes the Chairman to execute and file the Environmental Assessment Form and Negative Declaration attached hereto in accordance with the applicable provisions of law.
4. The Town Clerk shall maintain the EAF, Negative Declaration and all other SEQR documents and notices pertaining to the Action on file and available to the public during regular business hours.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

Terry Holt, Member voting Aye

Cathy Kelly, Member voting Aye_____

Christopher Dyroff, Member voting Aye

John Hunter, Member voting Aye

Erik Smith, Chairperson voting Aye

A motion was made by Mr. Hunter and seconded by Mr. Dyroff to approve the following Resolution of Approval for the Site Plan for this project:

RESOLUTION OF APPROVAL

SITE PLAN

FINAL

FOR

MATTHEW H. LAWNEY

Nature of Application

Matthew H. Lawney seeks to construct an addition to a single family home, the purpose of which is to add a master bedroom and kitchen on property located within the R-1-R Residential District of the Town of Highlands.

Property Involved

The property affected by this resolution is shown on the Tax Map of the Town of Highlands as parcel(s) Section 15, Block 3 Lot 30 and is located at 36 Montgomery Road.

Zoning District

The property affected by this resolution is located in the R-1-R zoning district of the Town of Highlands.

Plans

The Site Plan materials being considered consist of the following:

1. Completed application form and Environmental Assessment Form.
2. Plans prepared for Matthew H. Lawney as follows:

Author

Title

Last Revision Date

Stephen E. Lamb, P.E., L.S.

Plot Plan

June 18, 2010

History

Date of Application

The application was filed with the Planning Board on June 7, 2010.

Public Hearing

A public hearing on final for Site Plan was convened on July 15, 2010 and closed on the same date.

SEQRA

Type of Action:

This matter constitutes an unlisted action under the State Environmental Quality Review Act.

Lead Agency:

The Town of Highlands Planning Board is the lead agency in regard to this action. The Planning Board's status as lead agency was established on June 17, 2010.

Declaration of Significance:

A negative declaration was issued on July 15, 2010.

GML 239 Referral

The site is within 500 feet of the Hudson River and accordingly this application was referred to the Orange County Planning Department for review in June 2010. The Planning Department commented and recommended that the approval be a local determination on July 12, 2010.

Findings

The Planning Board has determined that approval of this site plan for the construction of the minor addition to the single family home as sited on the lot will substantially serve the public convenience, safety and welfare in general as well as that of the proposed occupants in that the land to be developed is of such character that it can be used safely without danger to health or peril from fire, flood or other menace. Further, the relation of the project to the topography of the land, drainage, and arrangement, and the possible future development of adjacent properties are all appropriate and consistent with the requirements of the Comprehensive Plan, and the applicable zoning regulations of the Town of Highlands, subject to compliance in full with conditions hereinafter imposed pursuant to Town of Highlands Code Section 210-21(B).

Resolution of Approval

NOW, THEREFORE, THE PLANNING BOARD RESOLVES to approve the final site plan application of Matthew H. Lawney as said proposal is depicted on the plans identified above and upon the conditions outlined below, and the Chairperson (or his designee) is authorized to sign the plans upon satisfaction of those conditions below noted to be conditions precedent to such signing.

Specific Conditions

1. The applicant shall comply with the requirements of Chapter 210 of the Code of the Town of Highlands, Zoning, at all times.
2. As a condition of this approval, the applicant shall be required to authorize town officers, employees or agents to enter onto the site to perform appropriate

3. The applicant shall pay outstanding Town of Highlands consulting fees incurred in connection with the review of the application as a condition precedent to the Chairperson or his designee signing the plans.

General Conditions

This approval is conditioned upon the applicant submitting all necessary copies of the plans to be signed, including mylars when required, to the Town of Highlands Building Department within one hundred eighty days of the date of this approval.

This approval is further conditioned upon the applicant delivering (prior to signing of the plans) proof, in writing, that all fees—engineering, planning, legal and otherwise—in regard to this project have been fully paid. The plans shall not be signed until proof, satisfactory to the Chair, has been presented showing that all such fees have been paid.

A FAILURE to comply with the general conditions immediately above in a timely manner may result in a lapsing of this approval.

In Favor 5 Against 0 Abstain 0 Absent 0

Terry Holt, Member voting Aye

John Hunter, Member voting Aye

Cathy Kelly, Member voting Aye

Christopher Dyroff, Member voting Aye

Erik Smith, Chairperson voting Aye

Dated: July 15, 2010

Erik Smith, Chairperson
TOWN OF HIGHLANDS PLANNING BOARD

STATE OF NEW YORK)
)ss:
COUNTY OF ORANGE)

I, _____, Secretary to the Planning Board of the Town of Highlands, do hereby certify that the foregoing is a true and exact copy of a Resolution adopted by the Planning Board at a meeting of said Board held on July 15, 2010.

_____, SECRETARY
TOWN OF HIGHLANDS PLANNING BOARD

I, JUNE PATTERSON, Clerk of the Town of Highlands, do hereby certify that the foregoing Resolution was filed in the Office of the Town Clerk on _____.

JUNE PATTERSON, Clerk
TOWN OF HIGHLANDS

**Homeland Towers, LLC and New Cingular Wireless PCS, LLC (AT&T) 1106
Route 9W (Special Exception & Site Plan Section 12 Block 1 Lot 10.11 B District)**

The Chairman noted that, as discussed last month, the Board needed to hire an RF Consultant. He stated that it was an involved process. He spoke with a number of consultants and talked to other Board members in the area. He has hired Mark Hutchins as an RF Consultant who will professionally represent the Board on this project. All information from the Board's Consultants will be shared with him. Mr. Hutchins will deal directly with the Applicant's RF Engineer.

The Chairman stated that the Applicant has not submitted any paperwork to the Building Inspector so they can be referred to the Zoning Board of Appeals. Mr. Anthony Gioffre, representing the Applicant explained that they are still assimilating information, including the Balloon Test. At this time, he shared with the Board NY928 Breakdown/Listing of the Defined Points of Interest.

The Chairman stated that at last month's meeting the date and a rain date were set for the Balloon Test of July 24, 2010 and August 31, 2010. Discussion of that test followed. Mr. Gioffre presented computer generated maps outlining the viewpoints for discussion with the Board.

The Chairman noted that he was a Garrison resident for the majority of his life, and would like them to consider the south redoubt and the Garrison School forest. The Applicant will pass this on to the technician. If he has other questions, he will reach out to the Chairman.

Ms. Dotson questioned No. 14 concerning residences below living on the north side. This is a public document and would not like people to misconstrue. Mr. Holt was asked if he had any other places to be photograph. He indicated that all places he thought of were addressed. Ms. Dotson asked who would be accompanying the technician considering the amount of places and the hiking that will be necessary and the commitment of time. The Applicant indicated that he will speak with the technician about having another technician available to assist. Some of the locations are difficult to hike.

The Chairman had questions about the balloon. The balloon is a weather balloon and is red. It is smaller than 10 feet. There cannot be wind or haze or fog. Clear conditions are needed and the balloon should not be moving. Because of the color it is very visible. They take the information and use it in the photo simulation. They take that as a representative location so that they can generate the photo simulation from that and then the monopole with all the standoffs will be shown on the photo simulations thereafter.

The technician telephone number will be emailed to Board Members. Dr. Kelly stated that earlier would be better for the test because looking toward the sun your visibility is not as good as it is when you are looking away from the sun. The Applicant agreed that the technician will want to do it very early.

The Chairman stated that the Planning Board Members will want to witness the test to get first hand information, but noted that all five cannot be together having a conversation, as this can be construed as a meeting.

Ms. Dotson discussed trail maps and how to access some of those points. The Applicant will give Ms. Dotson's information to Mr. Joe Deker.

Mr. Rider stated that he understood from last month's meeting that the Applicant would notify the public of the testing day and the reason the test is being conducted. The Applicant could find no notice requirements in the Code. He will coordinate to get some notice done by tomorrow. He needs direction from the Board as to whom he should notify. The Applicant will notify The News of the Highlands, The Times Herald Record and Channel 23. The Applicant indicated there was no Web Site available for notification. Copies of the Notification can be made available in the Town Library and in the Town Clerk's Office.

The Chairman, Mr. Hunter and Dr. Kelly plan to attend the Balloon Test, along with Ms. Dotson.

The Chairman asked about new submissions from the Applicant. The Applicant indicated that there were lengthy communications and the Consultant and Engineer are working on that and will submit that with the visuals. He will email the RF Engineer information to the Chairman to submit to Mr. Hutchins.

NEW BUSINESS - None

PUBLIC COMMENT

The Chairman stated that the Board welcomes public participation in the planning process. The Board along with the Consultants work within the confines of the Law and there are procedures to ensure proper review.

Mr. Greg Madigan, 110 Firefighter Way, Fort Montgomery, NY asked whether it was a Public Hearing that was held concerning the Cell Tower last month. The Chairman explained that it was not the initial time that the Applicant came before the Board. He explained that at all meetings there is a Public Comment time allotted. He questioned whether there would be a formal Public Hearing. The Chairman explained that a Special Exception and Site Plan project as this is will require a Public Hearing. He asked when that Public Hearing would take place. This can not be estimated at this time.

Mr. Glen Moyer, 6 Hillcrest Road, Fort Montgomery, NY had a few procedural and interpretative questions. He had three additional pages of Town Residents signatures that opposed the Cell Tower. He asked how the letters and memorandum should be handled. Mr. Rider indicated that they could be submitted as things go along. They can also be re-submitted at the formal Public Hearing for both the Zoning Board of Appeals and the Town Planning Board. It is not a formal petition under the law as much as evidence of the public's sentiment for the project. Photo copies would be fine. Mr. Moyer will keep the originals and at the Public Hearing will present the original documents. His interpretation question consisted of whether the 1,000 feet the Town Code requires means to the house or the lot. There are some lots where that will make a difference. Mr. Rider determined that it would be the physical building on the property, but he will reserve his interpretation to further study of the Town Code. The Chairman also explained that the Zoning Board of Appeals will make that determination. Mr. Moyer has been canvassing residences within that 1,000 foot radius and he is about 50% finished with that canvas. Initially, when he spoke last month, he estimated the number of residences affected to be 15-20 houses. It appears now that there are well over 50.

Mr. Moyer read the following letter addressed to the Planning Board and Zoning Board of Appeals, Town of Highlands, NY

“Re: Proposed Cell Tower at Holiday Inn Express

“Gentlemen/Ladies:

“I reside in a home that appears to be within 1000 feet of the site of the proposed cell phone tower. I am aware of the town ordinance that requires among other things, a 1000 foot distance from existing homes. I strongly opposed any waiver or variance being considered or requested for this installation.

“The town ordinance we have is a result of many months of research and discussion by the then Town Planning Board which voted on each provision. The ordinance was approved by a unanimous vote of the Town Board.

“Disregarding that intended distance/separation by granting a waiver or variance would be tantamount to disregarding both the letter and spirit of that law. Such a decision would have long term adverse effects on property/residence values and would be an eyesore in a residential neighborhood.

“Within the last few years, the ZBA rejected a chimney on one home in the neighborhood, and a peaked roof on the Holiday Inn itself because those structures would affect the visual character of the neighborhood and also affect the view shed on the Hudson River. If those structures were considered unacceptable, then the proposed cell tower in a place clearly prohibited by an existing ordinance would be an even bigger blight on the neighborhood and the river view shed.

“Any one of the reasons listed above is in my opinion sufficient reason to not grant any waiver or variance from the existing ordinance. The combination of the reasons should make it very easy for you to reject this application.

“As a person who will be affected by your decision, I want you to reject it.”

Ms. Deborah Kopald presented to the Board a Comment Letter relating to the EAF.

Board Member Terry Holt addressed Mr. Moyer’s comment concerning the variance request by the Holiday Inn for the hotel roof. He was Chairman of the Consolidated Zoning Board of Appeals at the time. The way that building is, it complies. They did not need a variance. To give them credit, they requested that variance and wanted to go to additional expense to put a peak roof on so it would blend in with the surroundings better. Most of the buildings in this town have a peak roof. It was going to be quite an expense and they requested a variance so it would blend in with the existing structures. There was so much noise over it that they said forget it. They built it with a flat roof. They withdrew their application for a variance, they were not declined. He is certain of that, he was Chairman.

There was no further Public Comment.

At 8:11 P. M. a motion was made to adjourn the meeting.

Motion: Mr. Holt

Seconded: Mr. Hunter

Approved

Respectfully submitted,

Fran DeWitt, Recording Secretary

The next Regular Planning Board Meeting is August 19, 2010.